

# BURLINGTON POLICE DEPARTMENT'S FAIR AND IMPARTIAL POLICING POLICY

## PURPOSE

**The purpose of this policy is to reaffirm the Burlington Police Department's commitment to conduct policing in a fair and impartial manner, to clarify the circumstances in which officers can consider personal characteristics when making law enforcement decisions, and to reinforce processes and procedures that enable us to provide services and enforce laws in an equitable and impartial way. Officers will act first and foremost in the best interests of our community and our mission when dealing with undocumented foreign nationals who come to the Department for help or to make reports, giving full priority to public safety and justice concerns.**

## POLICY

- a. **Employees are prohibited from engaging in biased policing. This means no member of the Burlington Police Department shall take actions based on any person's personal characteristics, except as described below, in the services our employees provide to the community in connection with our law enforcement activities. To achieve this objective the Department will implement a combination of best practices including but not limited to: hiring, in-service training, policy development, supervision, reporting and investigative processes, appropriate discipline, and community outreach/partnerships.**
- b. **It is essential to the mission of the Department that victims report crimes and fully cooperate in investigations, that witnesses come forward and provide testimonial evidence, that persons report suspicious activity and other information to reduce crime and disorder, and that help is summoned when needed. These activities must be undertaken without hesitation and without fear that the victim, witness, or reporting person will be subject to prosecution or deportation for no reason other than immigration status. *Because of this and because federal law does not require law enforcement agencies to ask about the immigration status of crime victims/witnesses, it is the policy of the Burlington Police Department that Burlington officers will not routinely ask any person about their immigration status.***
- c. **Citizenship, immigration status, national origin, race, and ethnicity should have no bearing on an individual's treatment in the Department's custody or interactions with the public. Immigration status or perceived immigration status, including the existence of an immigration detainer, shall not affect the detainee's ability to participate in pre-charge or police-initiated pre-court processes. Furthermore, immigration status or perceived immigration status shall not be used as a criteria for citation, arrest, or continued custody to determine an individual's ties to a community pursuant to Rule 3 of the Vermont Rules of Criminal Procedure.**

d. Local law enforcement are not required to enforce federal civil immigration laws.  
Therefore, it is the policy of the Burlington Police Department that its police officers  
shall not enforce civil immigration laws.

## CONTENT

### I. Definitions

“Biased policing” is conduct by law enforcement officers motivated by an individual’s actual or perceived or self-identified personal characteristics.

“Personal characteristics” include actual or perceived race, ethnicity, national origin, color, gender, sexual orientation, gender identity, marital status, mental or physical disability, age, religion and socio-economic status.

“Immigration status” refers to an individual’s lawful or unlawful presence in this country.

“Reasonable suspicion” means suspicion for which an officer can articulate factual reasons, but that does not need to rise to the level of probable cause.

“Probable cause” means facts or circumstances that would lead a reasonable person to believe that a crime has been committed, is being committed, or is about to occur.

“Member” or “employee” means any employee of the Burlington Police Department, regardless of their assigned tasks or duties.

*“Potential bias incident” means any interaction or situation that may involve personal characteristics being used as the reason for a person’s action.*

### II. Policing Impartially

A. As required by law, all enforcement actions by Burlington police officers, such as investigation, detentions, traffic stops, arrests, searches and seizures, must be based on reasonable suspicion, probable cause or other required legal standards.

B. Officers are expected to be able to articulate specific facts, circumstances, and conclusions which support the required standard for a given enforcement action.  
*Except as provided below, officers shall not consider the personal characteristics of a person in establishing reasonable suspicion or probable cause, initiating encounters that are not legal detentions, requesting consent to search, or deciding to exercise an official action.*

C. Officers may take into account reported race, ethnicity or other personal characteristics of persons as part of determining a person’s identity if the officer receives information the officer considers credible, reliable, and locally relevant that links a person of specific description to the matter requiring police response.

D. As required to comply with Title VI of the 1964 Civil Rights Act, officers are expected to utilize professional interpreter services either in person or

telephonically when necessary to speak with a person with limited English proficiency.

- E. Officers generally should not ask federal authorities to provide interpretation services, unless a clear emergency requires it and licensed interpretation services are not available through any other means. Unless one of the exceptions included in Section VIII applies, an officer shall not ask about the immigration status of the person for whom interpretation is required.

### III. Community Relations

To cultivate and foster transparency and trust, each ~~{agency member}~~ officer shall do the following when conducting pedestrian and vehicle stops or otherwise interacting with the public:

- A. Be courteous and professional;
- B. Introduce themselves to the person (providing name and agency affiliation), and state the reason for the stop as soon as practical unless providing this information will compromise officer or public safety;
- C. Ensure that the detention is no longer than necessary to take appropriate action for the known or suspected offense and that the person understands the purpose of reasonable delays;
- D. Provide the officer's name *and badge number* verbally when requested. Officers may also provide the information in writing or on a business card;

In addition to the above, officers should answer relevant questions the person may have if doing so will not compromise safety and/or the investigation.

### IV. Responding to Bias-Based Reports or Reports Regarding Bias from the Community

- A. If any Department employee receives a call for service that appears to be based solely on an individual's perceived personal characteristics or immigration status, the employee will attempt to ascertain if there are other circumstances or facts that would constitute reasonable suspicion or probable cause. If the complainant can offer no further information, the complainant's contact information will be obtained, and the complainant will be advised that the Officer in Charge of the shift will be in contact.
- B. The employee will contact the OIC and explain the circumstances of the call. The OIC should attempt to familiarize the caller with the Department's Fair and Impartial Policing policy and explain that the Department responds to actions that appear to be crimes and not to situations that are based solely on someone's personal characteristics. If the caller is concerned about the person's perceived immigration status, the caller should be referred to federal authorities.
- C. At the conclusion of the call, the OIC will ensure that the contact is documented using the Department's incident report system.
- D. If an employee receives a report of a potential bias incident, the Department shall either dispatch an officer to evaluate the complaint or refer the caller to the officer in charge.

### V. Due Process and Immigration Enforcement

- 144 A. Building trust between police and all residents is vital to the public safety mission  
145 of the Department. Policing in a fair and impartial manner is essential to building  
146 such trust. Therefore, officers shall not use an individual's personal  
147 characteristics as a reason to ask about, or investigate, a person's immigration  
148 status. Officers may inquire about immigration status only when it is necessary to  
149 the ongoing investigation of a criminal offense.
- 150 B. Burlington Police officers are not charged with enforcing and will not enforce civil  
151 immigration laws, where the only violation of law is presence in the United States  
152 without authorization or documentation. This includes not initiating or prolonging  
153 stops based on civil immigration matters, such as suspicion of undocumented  
154 status. Similarly, officers shall not knowingly facilitate the detention of  
155 undocumented individuals or individuals suspected of being undocumented by  
156 federal immigration authorities solely for suspected civil immigration violations.
- 157 C. Because local police officers are not required to enforce "administrative warrants,"  
158 "immigration detainers," and "requests for notification" issued by Immigration and  
159 Customs Enforcement (ICE), officers will not detain individuals based on any of these  
160 documents alone or comply with requests for notification, subject to subsection D below.
- 161 D. *This policy is not intended to prohibit or restrict any Department employee from sending  
162 to or receiving from any federal immigration official information regarding the citizenship  
163 or immigration status of any individual.*
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165 VI. Training and Compliance

- 166 A. The Department will ensure that, at a minimum, all members and employees are  
167 compliant with Council and legislative requirements regarding fair and impartial  
168 policing training.
- 169 B. Additional trainings may include instruction on anti-bias, power and privilege,  
170 non-English speaking communities, undocumented communities, and  
171 victim/witness services.
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174 VII. Accountability and Supervision

- 175 A. Accountability is a vital element of policing. Police agencies are better able to  
176 achieve the goals of protecting the public safety, enhancing the quality of  
177 neighborhood life, and serving community needs if the communities they serve  
178 trust them. The means for making a complaint about biased policing shall be  
179 readily available to the public.
- 180 B. Where appropriate, employees are required to intervene at the time they become  
181 aware that a biased policing incident is occurring. Employees will be alert and  
182 respond to indications of potential biased policing.
- 183 C. All members of this agency are required to promptly report allegations,  
184 complaints or knowledge of biased policing or suspected violations of this policy  
185 to their supervisor.
- 186 D. Shift supervisors will accept any complaint from the public regarding any  
187 provision of this policy and shall follow the agency's procedure for handling  
188 citizen's complaints.
- 189 E. The Department shall ensure that all employees are familiar and in compliance  
190 with the content of this policy.
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VIII. Additional Guidance Regarding Due Process and Immigration Enforcement

A. VICTIM AND WITNESS INTERACTION

The following guidelines are based on best practices and offer guidance on how to best support crime victims/witnesses and to ensure procedural justice and enhance trust between the police and community.

1. To effectively serve immigrant communities and to ensure trust and cooperation of all victims/witnesses, officers will not ask about, or investigate, immigration status of crime victims/witnesses unless the victim/witness is also a crime suspect and immigration status is necessary to the criminal investigation.
2. Officers will coordinate the availability of victim services to documented and undocumented victims/witnesses and victims of crimes. Officers should communicate that they are there to provide assistance and to ensure safety, and not to deport victims/witnesses and that officers do not ask victims/witnesses about their immigration status.
3. Officers shall not report or communicate information about victims/witnesses to federal immigration authorities, except for information regarding the citizenship or immigration status of an individual, unless they have a signed, written consent by the victim/witness.

B. IMMIGRATION STATUS:

1. An officer's suspicion about any person's civil immigration status shall not be used as a basis to initiate contact, detain, or arrest that person. The exception to this would be in those instances where the agency member is working with Federal partners in the Stone Garden program or similar Federal initiatives.
2. Officers may not inquire about a person's civil immigration status unless civil immigration status is necessary to the ongoing investigation of a criminal offense.
3. Officers shall not make warrantless arrests or detain individuals on suspicion of "unlawful entry," unless the suspect is apprehended in the process of entering the United States without inspection.

C. ESTABLISHING IDENTITY:

1. Notwithstanding other provisions of this policy, officers may make attempts to identify any person they detain, arrest, or who come into the custody of the Department.
2. An individual should not be stopped or detained solely for the purpose of establishing his or her identity. Officers may utilize general federal databases in attempts to establish an individual's identity but should not involve federal immigration officials in such an inquiry unless necessary. If federal immigration officials are involved, communication should be limited to what is needed to establish the individual's identity or to communicate regarding citizenship or immigration status.

239 **3. Acceptable forms of identification, which must include a photograph of the**  
240 **individual, may include, driver's licenses from a U.S. state or foreign country,**  
241 **government-issued IDs by a U.S. jurisdiction, foreign passports, and consular**  
242 **ID cards.**

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244 **D. CIVIL IMMIGRATION WARRANTS:**

245 Officers shall not knowingly arrest any individual based on a civil immigration warrant,  
246 including DHS Forms I-200, I-203, I-205, and any administrative warrants listed in the  
247 National Crime Information Center Database (NCIC).  
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249 **E. COLLABORATION WITH FEDERAL IMMIGRATION OFFICERS:**

- 250 **1.** Officers shall not contact CBP or ICE for assistance solely on the basis of a  
251 suspect's or arrestee's race, ethnicity, or national origin, although they may  
252 communicate regarding an individual's citizenship or immigration status.  
253 **2.** Officers shall not prolong any detention solely in order to investigate  
254 immigration status or to allow CBP or ICE to investigate immigration status.  
255 **3.** Sweeps intended solely to locate and detain undocumented immigrants shall  
256 not be conducted unless acting in partnership with a Federal agency as part of  
257 a formal partnership.  
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259 **F. USE OF RESOURCES:**

260 Officers shall not hold for or transfer people to federal immigration agents unless the  
261 federal agents provide a judicial warrant for arrest. A civil immigration detainer (Form I-  
262 247, I-247D, I-247N, or I-247X) is not a warrant and is not reviewed by a judge and  
263 therefore is not a lawful basis to arrest or detain anyone. Valid criminal warrants of  
264 arrest, regardless of crime, shall not be confused with immigration detainers. This policy  
265 does not affect the proper handling of arrests and detentions associated with criminal  
266 arrest warrants.  
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